

**Final Statement of Reasons for
Adoption of Proposed Amendments to California Code of Regulations,
Title 18, Section 1616, Federal Areas**

Update of Information in the Initial Statement of Reasons

The factual basis, specific purpose, and necessity for the proposed amendments adding new subdivision (d)(4)(G) to California Code of Regulations, title 18, section (Regulation) 1616, *Federal Areas*, are the same as provided in the Initial Statement of Reasons.

The State Board of Equalization (Board) did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the amendments to Regulation 1616 that was not identified in the Initial Statement of Reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

The Board did not reject any reasonable alternatives to the proposed amendments to Regulation 1616 or any alternatives that would lessen the adverse economic impact on small businesses. No alternative amendments were presented to the Board for consideration.

The adoption of the proposed amendments to Regulation 1616 will recognize the holdings of United States Supreme Court opinions regarding the preemption of state taxation when it unlawfully infringes on the rights of federally-recognized Indian tribes to make their own laws and be ruled by them and further clarify the types of transactions that are already exempt from sales and use tax under Revenue and Taxation Code (RTC) section 6352. Therefore, the Board has made an initial determination that the adoption of the proposed amendments to Regulation 1616 will not have a significant adverse economic impact on business, including small business.

The proposed regulation may affect small business.

The adoption of the proposed amendments to Regulation 1616 was not mandated by federal statutes or regulations and there is no federal regulation that is identical to Regulation 1616.

No Mandate on Local Agencies or School Districts

The Board has determined that the proposed amendments to Regulation 1616 do not impose a mandate on local agencies or school districts.

No Public Comments Received

The Board did not receive any written comments from interested parties regarding the proposed amendments to Regulation 1616. On November 15, 2011, the Board held a public hearing on the proposed amendments to Regulation 1616 and unanimously voted to adopt the proposed amendments without any changes. No interested parties asked to speak at the public hearing.

Alternatives Considered

On July 26, 2011, the Board considered whether to propose the amendments adding subdivision (d)(4)(G) to Regulations 1616 or, alternatively, whether to take no action at that time. The Board decided to propose the amendments adding subdivision (d)(4)(G) because:

- The Board determined that the nature of the state, federal, and tribal interests at stake dictate that federal law preempts the imposition of California's sales and use tax on the sale of tangible personal property to and the use of tangible personal property by the tribal governments of federally-recognized California Indian tribes, when such property is purchased for use in tribal self-governance, and the tribal governments have no reservation on which to conduct their governmental activities or the tribal governments have undeveloped reservations where it is impractical to conduct their governmental activities; and
- The Board determined that it is necessary to amend Regulation 1616 to add a new subdivision (d)(4)(G) for the specific purpose of implementing, interpreting, and making specific the provisions of RTC section 6352 by recognizing the additional, limited federal preemption described above.

By its motion, the Board determined that no alternative to the proposed amendments to Regulation 1616 would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would lessen the adverse economic impact on small businesses.